

such instances, the installation commander will notify the SHPO and the Advisory Council on Historic Preservation and, if appropriate, consummate a "Memorandum of Agreement" that the proposed action will not adversely affect the historical, architectural, archeological or cultural value of the property (§650.191).

**§ 650.191 Compliance procedures.**

(a) The applicable Federal regulation that contains the review requirements of section 106 of Pub. L. 89-665 and Executive Order 11593 is 36 CFR part 800, Procedures for the Protection of Historic and Cultural Properties, and is included in its entirety in the appendix.

(b) Any action which may have an effect on a National Register property or an historic place which appears eligible for listing in the National Register must go through two integral but separate review procedures. First, the environmental impact assessment (subpart B of this part) must identify cultural resources potentially affected by the proposed action. Second, where the identification of cultural resources indicates that properties included in the National Register will be affected, evidence of compliance with the review requirements of 36 CFR part 800 will be included in the environmental impact assessment and/or EIS Comments by the Advisory Council on Historic Preservation, should be included in the EIA or draft EIS and must be included in the final EIS.

(c) If there is an effect, but it is determined that the action will not have an adverse effect, a description of the proposed action together with the commander's determination of "no adverse effect" will be forwarded to the SHPO for comments. If the SHPO concurs in the findings, then a copy of this correspondence will be forwarded to the Executive Director of the Advisory Council on Historic Preservation (§650.191(f)). If there is no reply within 45 days, the action may proceed.

(d) If it appears that there will be an adverse effect, the installation commander will prepare a technical report documenting the identification of cultural resources, the assessment of the impact of the undertaking on those re-

sources, and the feasibility of mitigative measures. All mitigative measures proposed to minimize adverse effects on properties included or eligible for inclusion in the National Register should have the concurrence of the SHPO and the Advisory Council on Historic Preservation and should be documented in a Memorandum of Agreement signed by all three parties. In most cases, an on-site inspection/consultation by the signees is required as part of the development of the Memorandum of Agreement. All correspondence regarding the determination of "no adverse effect," (§650.191(b)) or in obtaining a Memorandum of Agreement is to be forwarded to the parties directly involved with information copies to the appropriate major command and HQDA (DAEN-MCZ-E) WASH DC 20314.

(e) If a memorandum of agreement cannot be consummated, the case will be forwarded through Army channels to HQDA (DAEN-MCZ-E) WASH DC 20314, who will in turn forward it to the Advisory Council on Historic Preservation for review and evaluation. Where a Memorandum of Agreement cannot be obtained or an unfavorable ruling is obtained from the Advisory Council, then an Environmental Impact Statement containing the comments of the Advisory Council must be prepared covering the basic action and the proposed mitigative measures. If it is determined that the Army should proceed with the proposed action and that action will result in the destruction or major alteration of the property, then records of the property, including measured drawings, photographs, and written data will be prepared for deposit in the Library of Congress as part of the Historic American Buildings Survey or the Historic American Engineering Records in accordance with the standards promulgated by the Office of Archeology and Historic Preservation, Department of the Interior, Wash DC 20240. (TM 5-801-1 explains the standards and §650.192 discusses archeology).

(f) Advice on matters relating to implementing 36 CFR part 800 may be obtained from the Advisory Council on Historic Preservation as indicated below:

(1) Eastern Area: Executive Director, Advisory Council on Historic Preservation, Suite 430, 1522 K Street, NW, Washington, DC 20005, Telephone: (202) 254-3974.

(2) Western Area: Director, Western Office, Advisory Council on Historic Preservation, P.O. Box 25085, Denver, Colorado 80225, Telephone: (303) 234-4946.

**§ 650.192 Archeological sites.**

(a) The Secretary of the Army, under the authority of 16 U.S.C. 432, may issue archeological permits on Army-controlled installations after referral of the permit application to the Smithsonian Institution for his recommendations (AR 405-80).

(b) All Army-controlled property will be surveyed to identify and locate archeological sites. Due to the magnitude of such surveys, installation commanders will establish coordination with the appropriate field offices of the National Park Service, SHPO and/or EO 11593 consultant, to review current Army plans, programs and activities which may lead to the destruction of an archeological site and to develop survey schedules for affected areas. Since Army activities may necessarily lead to destruction of archeological sites, the survey must include value judgments assessing the relative significance of the surveyed sites so that destruction of the more significant archeological sites may be avoided.

(c) The National Park Service may not be able to provide timely surveys of archeological resources necessary for preparation of legally sufficient environmental statements on Army activities. In these cases, the installation commander is authorized to contract with outside experts for the survey of archeological sites after receipt of a written turndown by the National Park Service, except as limited in paragraph (c)(2) of this section. Copies of all such surveys should be furnished appropriate field officials of the National Park Service.

(1) While such inventories generally would be confined to a literature search and a reconnaissance of the affected area, there may be occasions when testing of archeological sites will be necessary in order to establish the

need for the National Park Service to budget full-scale archeological survey programs at a later date.

(2) In any instance where estimated contract cost of such work exceeds \$25,000, the matter must be referred to HQDA (DAEN-MCZ-E) WASH DC 20314 prior to consummation of a contract.

(d) A copy of the program requirements for archeological investigations and salvage activities as jointly determined by the installation commander and the National Park Service will be provided HQDA (DAEN-MCZ-E) WASH DC 20314, in order to assist in overall program coordination between DAEN-MCZ-E and the Office of Archeology and Historic Preservation, Department of the Interior.

(e) Salvage activities. (1) Procedures for authorizing archeological salvage activities on Army-controlled property are contained in AR 405-80.

(2) Installation commanders are responsible for instituting security measures for the protection of an archeological site during salvage operations. Assistance in salvage operations may be made when determined to be within the capability of the installation.

(3) Permits for archeological investigations and salvage activities will identify a museum responsible for preserving artifacts found as a result of the investigation. Therefore, where appropriate, permits for archeological investigations on Army-controlled property will designate the post museum as the recipient of all specimens. If the post museum is not appropriate, the Commanding General, US Army Center of Military History will determine which museum will be designated.

(f) In the event that a suspected archeological site is encountered during construction or some other form of activity, operations in the area will be suspended until the Secretary of the Interior is consulted and the site is investigated by a professional archeologist approved by the Secretary of the Interior. All construction contracting procedures, both through direct contracting or by the District Engineer, will be amended to require the provision to obtain expert archeological analysis as required. Installation commanders and District Engineers are authorized to expend funds appropriated